

EXHIBIT B

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14 VITAL PHARMACEUTICALS, INC., D/B/A VPX SPORTS;
and JOHN H. OWOC, A.K.A. JACK OWOC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

18 MONSTER ENERGY COMPANY, a
Delaware corporation,

Plaintiff,

Defendants.

CASE NO. 5:18-cv-01882-JGB-SHK

**DECLARATION OF DR.
LIANGXI LI IN SUPPORT OF
DEFENDANT VITAL
PHARMACEUTICALS, INC.'S
OPPOSITION TO MONSTER
ENERGY COMPANY'S
DISCOVERY DISPUTE LETTER
MOVING TO COMPEL
PRODUCTION OF TRADE
SECRET BANG® FORMULAS**

Complaint filed: Sept. 04, 2018
FAC filed: April 3, 2019

1 I, Dr. Liangxi Li, hereby declare:

2 1. I am Director of Research and Development (“R&D”) and Co-
3 packing for Vital Pharmaceuticals, Inc., d/b/a VPX Sports (“VPX”).

4 2. I have personal knowledge of the facts in this declaration.

5 3. My knowledge is based upon my professional experience, senior
6 position at VPX, and review of records regularly made or collected at or near the
7 time of the events memorialized thereby and maintained in the ordinary course of
8 VPX’s business by individuals with knowledge of the information contained
9 therein. If called and sworn as a witness, I could and would testify competently to
10 the facts stated herein.

11 4. I am submitting this declaration in support of VPX’s opposition to the
12 attempt of Monster Energy Company’s (“Monster”) to compel the production of
13 the trade secret formulas for the BANG® energy drink.

14 5. Starting around May 2009, I began to perform research and testing on
15 behalf of VPX related to its efforts to make a beverage containing a stable
16 creatine.

17 6. To that end, I was involved with and working at the direction of
18 VPX’s CEO, Jack Owoc, to assist in developing and inventing the creatine amino
19 acid dipeptide that was eventually patented and introduced into VPX’s BANG®
20 energy drink products.

21 7. I began full-time employment at VPX in October 2011 as an associate
22 food scientist working on many products, including, as noted, chemistry work to
23 develop the Super Creatine® products that VPX sells under the BANG® brand.

24 8. I helped develop the original formula for VPX’s BANG® energy drink
25 products.

26 9. My day-to-day job function includes the constant research, testing,
27 and development of not only the various BANG® energy drinks, but also VPX’s
28 other products.

1 10. As part of that function, I am one of the few employees at VPX who
2 has access to, among other confidential information, the formulas of VPX's
3 products, the amounts for each ingredient in BANG®, the codes for certain
4 ingredients, and the suppliers of those ingredients (collectively, "Trade Secrets").

5 11. I directly supervise all employees of the VPX R&D Department (the
6 "R&D Department"). Currently, there are six of us in the R&D Department—
7 myself and five employees, who, again, I directly supervise.

8 12. Hard copies and other tangible Trade Secrets are created, maintained,
9 and stored in the R&D Department, which itself is kept locked at all times.

10 13. The physical area of the R&D Department is an enclosed space, has
11 restricted access, and includes desk-station work areas for the employees, filing
12 cabinets (for storage of our notebooks and other Trade Secret documents), and a
13 full-scale working laboratory.

14 14. Access to the R&D Department is restricted at all times.

15 15. Physical entry to the R&D Department is protected by a key-card
16 based access control system.

17 16. This control system is triggered by a VPX-issued employee card, or
18 employee access badge, which allows VPX to track and authorize access to the
19 R&D Department.

20 17. To my knowledge, only I, the five other employees in the R&D
21 Department, and a small number of other employees, have access to the R&D
22 Department.

23 18. It is a strict policy of the R&D Department that documents related to
24 the Trade Secrets are not needlessly printed.

25 19. Similarly, the R&D Department endeavors not to make copies of
26 documents related to the Trade Secrets unless necessary.

27 20. We have and routinely use a paper shredder in the R&D Department.

28 21. When documents containing Trade Secrets are printed and/or copied,

1 and then are no longer needed, it is a strict policy of the R&D Department that
2 those documents be placed in the shredder.

3 22. Documents containing Trade Secrets that are placed in the shredder
4 are typically shredded and discarded on a daily basis during regular business days.

5 23. It is also a strict policy of the R&D Department that all hard copy
6 documents containing Trade Secrets are kept within the R&D Department.

7 24. If Trade Secrets documents are to be removed from or checked out of
8 the R&D Department, someone from the R&D Department, typically myself,
9 must approve the check-out and sign for it.

10 25. Visitor-access to the R&D Department is restricted and is otherwise
11 permitted on an extremely limited basis, again, only when first approved and only
12 if supervised by someone from the R&D Department.

13 26. VPX's formula for BANG®, the amounts of ingredients, the codes for
14 certain ingredients, and the identity of suppliers of ingredients is information that
15 any of VPX's competitors, such as Monster and its affiliate companies, would
16 benefit from knowing and would be enormously detrimental to VPX's business if
17 Monster knew, disclosed, and/or copied this information.

18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20 Executed this 13th day of September 2019, in Weston, Florida.

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Dr. Liangxi Li